TABLE OF CONTENTS

IAB SH2450947

MISCELLANEOUS DOCUMENTS

Temple Station In-service, AM, Dated March 18, 2018

Administrative Rights Force/Shooting Investigation Forms

Los Angeles County Sheriff's Department Temple Station Observer Program (Ride-Along) Application



LOS ANGELES COUNTY DISTRICT ATTORNEY'S OFFICE
BUREAU OF FRAUD AND CORRUPTION PROSECUTIONS
JUSTICE SYSTEM INTEGRITY DIVISION

JACKIE LACEY • District Attorney
JOSEPH P. ESPOSITO • Chief Deputy District Attorney
VICTORIA L. ADAMS • Assistant District Attorney

SCOTT K. GOODWIN • Director

January 22, 2018

Captain Christopher Bergner
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

Re: Officer Involved Shooting of Manuel Borrego
J.S.I.D. File #18-0105
L.A.S.D. File #018-03394-0563-013

Dear Captain Bergner:

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 18, 2018, fatal shooting of Manuel Borrego by a members of the Los Angeles Sheriff's Department. Our detailed analysis of this incident is contained in the attached memorandum.

Very truly yours,

JACKIE LACEY
District Attorney

By

SHANNON PRESBY
Head Deputy District Attorney
Justice System Integrity Division

c: Deputy Bradley Dietze, #[redacted]

Hall of Justice
211 West Temple Street, Suite 1200
Los Angeles, CA 90012
(213) 974-3888
Fax: (213) 626-5125
WEBSITE: http://da.lacounty.gov

MEMORANDUM

TO: CAPTAIN CHRISTOPHER BERGNER
Los Angeles County Sheriff's Department
Homicide Bureau
1 Cupania Circle
Monterey Park, California 91755

FROM: JUSTICE SYSTEM INTEGRITY DIVISION
Los Angeles County District Attorney's Office

SUBJECT: Officer Involved Shooting of Manuel Borrego
J.S.I.D. File #18-0105
L.A.S.D. File #018-03394-0563-013

DATE: January 22, 2019

The Justice System Integrity Division of the Los Angeles County District Attorney's Office has completed its review of the March 18, 2018, fatal shooting of Manuel Borrego by Los Angeles County Sheriff's Department (LASD) Deputy Bradley Dietze. It is our conclusion that Deputy Dietze acted in lawful self-defense and defense of others.

The District Attorney's Command Center was notified of this shooting on March 18, 2018, at approximately 11:20 a.m. The District Attorney's Response Team responded and was given a briefing and walk-through of the scene.

The following analysis is based on reports submitted to our office by LASD Homicide Bureau. The reports include photos and interview transcripts of witnesses. The voluntary statement of Deputy Dietze was considered in this analysis.

FACTUAL ANALYSIS

On March 18, 2018, at approximately 8:40 a.m., LASD Temple Station received a call for service from [redacted] regarding trespassing at a vacant property belonging to his [redacted]. [redacted] arrived to check on the property and noticed there was a hole in the chain linked fence that surrounded the property, and one of the doors to the property was left open. A few minutes later, while waiting for deputies to arrive, [redacted] noticed a woman leave the property. [redacted] called LASD Temple Station a second time and provided his observations of the woman.

Deputies Vu Bui and Dietze responded to the call separately. Upon arriving at the location, Dietze noticed a man, later identified as Manuel Borrego, sitting on the north curb of Durfee Avenue. Because of the close proximity between Borrego and the location for the service call, Dietze attempted to contact him. Borrego fled from Dietze brandishing two large knives and an officer involved shooting occurred that resulted in the death of Borrego.

Statement of [redacted]

On March 18, 2018, [redacted] drove by to check on a vacant property located at [redacted] Durfee Avenue.[1] Upon arrival, he noticed a hole in the chain linked fence, and several bicycles located on the property. [redacted] parked his vehicle on the street, walked through the hole in the chain linked fence, and walked toward the south doors of the property. He noticed one of the doors was open, and trash behind the property. He looked inside and saw graffiti on the walls and a couch inside a room. He yelled "[redacted]" but did not see anyone. He walked outside and called Temple Sheriff's station to request that deputies respond to the location. While waiting for deputies to arrive, [redacted] saw a woman walk out of the property toward the hole in the chain linked fence. He asked the woman, "What are you doing here?" The woman responded, "I'm homeless. I slept in there." [redacted] told the woman no one is supposed to be there and the woman walked away. [redacted] called Temple Sheriff's station a second time and told them about his encounter.[2]

Statement of Deputy Bradley Dietze

Deputy Dietze responded to a call regarding a possible burglary at [redacted] Durfee Avenue in the City of South El Monte.[3] As Dietze was driving, he saw a man, later identified as Borrego, sitting on the north sidewalk, across the street from the location. Dietze believed Borrego was related to the call for service and drove toward the sidewalk to contact him. As Dietze got closer to Borrego, he saw an assisting patrol unit driving eastbound on Durfee Avenue. Dietze immediately broadcast over the radio that he was going to contact Borrego.

Dietze parked his patrol vehicle approximately five to six feet away from Borrego. Dietze noticed a bag or backpack on the ground next to Borrego. As Dietze exited his vehicle, Borrego stood up very quickly and began walking eastbound on the sidewalk at a fast pace. Borrego then changed direction, and ran south across Durfee Avenue toward the location of the service call. As Borrego was running, he kept looking back at Dietze. Dietze then saw an unknown object in Borrego's hands. Dietze broadcast on his radio that he was in foot pursuit of Borrego. Dietze began giving Borrego commands to stop, and drew his duty weapon. As Borrego was running south across Durfee Avenue, he stopped in the number two lane of the eastbound traffic, and turned back toward Dietze. Dietze gave Borrego additional commands to get on the ground as he pointed his service weapon at him from approximately 12-15 feet away. Borrego placed both of his hands together and then quickly pulled them apart as if he was pulling out a sword. Dietze saw Borrego holding a red knife with a red blade in his right hand.[4]

Borrego held the blade extended outward away from his body. Borrego's body posture caused Dietze to believe that Borrego was going to come at him with the knife. Dietze saw Boerrego's arms move outward toward him with the knife out in front of his body with the blade of the knife

---

[1] The property belonged to his [redacted] who was no longer able to tend to the property. [redacted] would periodically check on the property as unknown vehicles were known to park at the location without permission.
[2] [redacted] stated the property had been vacant for over a year and all gates, doors and windows are kept locked.
[3] Dietze was wearing his LASD Class "A" uniform and driving a clearly identifiable marked black and white Ford Explorer police vehicle.
[4] Dietze described the blade as approximately six to eight inches in length.

pointing toward him. Dietze continued to give Borrego commands. It appeared Borrego was going to comply and go to the ground as he briefly leaned forward and placed his hands near the ground; however, approximately one to two seconds later, Borrego took a partial step forward, pushed off the ground by using his left hand and took two to three steps in Dietze's direction, closing the distance between them while extending the blade of the knife toward Dietze. As this was happening, Borrego had a blank look on his face. In fear for his life, Dietze fired three rounds at Borrego and Borrego immediately fell to the ground.[5] Deputy Bui approached Borrego and handcuffed him.

Statement of Deputy Vu Bui

Deputy Bui was working patrol at LASD's Temple Station when he responded to a service call at [redacted] Durfee Avenue. As Bui was driving toward the location, he heard Dietze broadcast over the radio that he was going to contact Borrego on the sidewalk. As Bui approached the location, he saw Dietze walking toward Borrego. Bui parked his vehicle directly in front of Dietze's vehicle and saw Borrego running eastbound on the sidewalk past the rear of Dietze's vehicle. When Bui exited his vehicle, he saw Borrego standing in the street, in the number two lane of eastbound traffic.

Borrego was facing Dietze holding a red knife in his right hand, with a blade approximately six to eight inches in length, and swinging an unknown grey object in his left hand. Dietze was standing in the middle of the street with his weapon pointed at Borrego giving him commands to "Get down!" As Dietze continued to give Borrego commands, Bui moved toward the center of the street. Bui had a clear view of Borrego's left side and was approximately 15 feet from him and was approximately ten feet from Dietze.[6]

It appeared Borrego was going to comply with the commands by going down to the ground. Borrego bent his knees and leaned forward into a crouching position then suddenly lunged toward Dietze with the blade of the red knife pointed toward Dietze. Dietze fired approximately three rounds at Borrego, striking him. Borrego took a few steps back and the grey object in his left hand fell to the ground. Bui heard Borrego groan briefly before falling to the ground while still holding the red knife in his right hand.

Dietze and Bui continued to give Borrego commands to drop the knife, however he did not respond. Bui approached Borrego and kicked the knife out of Borrego's right hand with his left foot. After kicking the knife away, Bui searched Borrego and checked his body for wounds. Dietze requested paramedics to assist with treating Borrego.

Firearms/Weapons

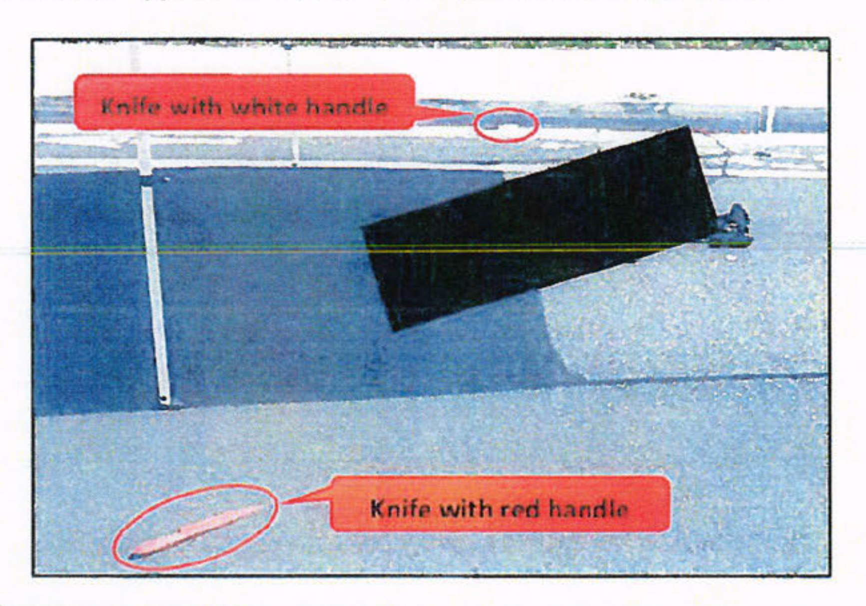
Dietze was armed with a .45 caliber semiautomatic pistol. Three expended .45 caliber cartridge casings were recovered at the scene and determined to have been fired from Dietze's service weapon.

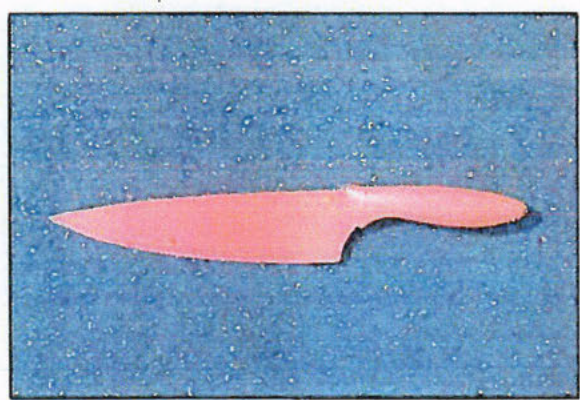
---

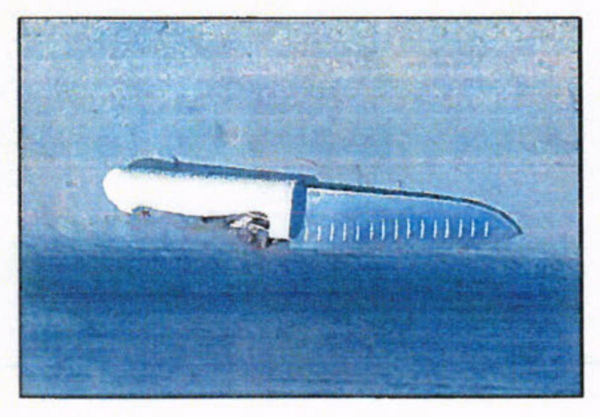
[5] Dietze broadcast that he was involved in a shooting.

[6] Borrego did not speak, but appeared to have an angry look on his face.

Borrego was armed with two kitchen knives: one with a red blade and red handle approximately 12 inches in length that was recovered approximately five to six feet from Borrego's feet; and a second knife with a steel colored blade and white plastic handle approximately 12 inches in length that was recovered approximately five to six feet from Borrego's head.







Decedent Manuel Borrego

Borrego was 40 years old at the time of the incident.

Investigators spoke with Borrego's [redacted] told investigators that Borrego suffered from paranoia and schizophrenia. [redacted] stated Borrego believed his own [redacted] members were out to get him and she was concerned an incident involving her [redacted] was going to happen.

Autopsy

On March 21, 2018, Deputy Medical Examiner Vadims Poukens, M.D., performed an autopsy on Borrego. Dr. Poukens concluded Borrego's death was caused by multiple gunshot wounds.

Gunshot wound #1 was to the left jaw/neck, with a front to back, left to right, downward direction, and gunshot wound #2 was to the left shoulder, with a front to back, left to right, downward direction, that was deemed to be fatal.

A toxicology analysis revealed Borrego had .68 ug/mL amphetamine and 7.3 ug/mL methamphetamine in his heart blood at the time of his death.

LEGAL ANALYSIS

A police officer may use reasonable force to effect an arrest, prevent escape, or overcome resistance of a person the officer believes has committed a crime. Penal Code section 835a. An officer "may use all the force that appears to him to be necessary to overcome all resistance, even to the taking of life; [an officer is justified in taking a life if] the resistance [is] such as appears to the officer likely to inflict great bodily injury upon himself or those acting with him." People v. Mehserle (2012) 206 Cal.App.4th 1125, 1146. A killing of a suspect by a law enforcement officer is lawful if it was: (1) committed while performing a legal duty; (2) the killing was necessary to accomplish that duty; and (3) the officer had probable cause to believe that (a) the decedent posed a threat of serious physical harm to the officer or others, or (b) that the decedent had committed a forcible and atrocious crime. CALCRIM No. 507, Penal Code section 196. A forcible and atrocious crime is one which threatens death or serious bodily harm. Kortum v. Alkire (1977) 69 Cal.App.3d 325, 333.

An officer has "probable cause" in this context when he knows facts which would "persuade someone of reasonable caution that the other person is going to cause serious physical harm to another." CALCRIM No. 507. When acting under Penal Code section 196, the officer may use only so much force as a reasonable person would find necessary under the circumstances. People v. Mehserle (2012) 206 Cal.App.4th 1125, 1147. And he may only resort to deadly force when the resistance of the person being taken into custody "appears to the officer likely to inflict great bodily injury on himself or those acting with him." Id. at 1146; *quoting* People v. Bond (1910) 13 Cal.App. 175, 189-190. The prosecution has the burden of proving beyond a reasonable doubt that a killing was not justified. CALCRIM Nos. 505, 507.

California law permits any person, including police officers, to use deadly force in self-defense or in the defense of others, and, if someone dies as a result, this is a "lawful excuse" which precludes a conviction for murder. Penal Code sections 197, 198; CALCRIM No. 505. This defense is available if the killer actually and reasonably believed that he or others were in imminent danger of great bodily injury or death. Penal Code § 197; CALCRIM No. 505; *see also* People v. Randle (2005) 35 Cal.4th 987, 994 (overruled on another ground in People v. Chun (2009) 45 Cal.4th 1172, 1201); People v. Humphrey (1996) 13 Cal.4th 1073, 1082. In protecting himself or another, a person may use all the force which he believes reasonably necessary and which would appear to a reasonable person, in the same or similar circumstances, to be necessary to prevent the injury which appears to be imminent. CALCRIM No. 505, 3470.

The evidence presented in this investigation shows that deputies Dietze and Bui responded to a possible burglary call.[7] When Dietze arrived, he observed Borrego near the location. Dietze attempted to contact Borrego, but Borrego fled. Dietze gave Borrego commands to stop, and drew his duty weapon. As Borrego was running away from Dietze, he stopped and turned back toward Dietze. Dietze gave Borrego commands to get on the ground as he pointed his service weapon at him. Dietze then saw Borrego holding a red knife with a red blade in his right hand. Borrego held the blade extended outward away from his body which caused Dietze to believe that Borrego was going to come at him with the knife. Dietze saw Borrego's arms move outward toward him, with the knife out in front of his body and the blade of the knife pointing toward him. Dietze continued to give Borrego commands. It appeared Borrego was going to comply and go to the ground as he briefly leaned forward and placed his hands near the ground; however, approximately one to two seconds later, Borrego took a partial step forward, pushed off the ground by using his left hand and took two to three steps in Dietze's direction, closing the distance between them while the blade of the knife was extended toward Dietze. In fear for his life, Dietze fired three rounds at Borrego.

Based on the evidence presented, we determine that Borrego placed Dietze in reasonable fear for his life when he advanced towards Dietze while pointing a knife at him, forcing Dietze to make a split-second decision to end the threat by firing his service weapon at him.

CONCLUSION

For the foregoing reasons, we conclude that Deputy Bradley Dietze acted in lawful self-defense when he used deadly force against Manuel Borrego. We are therefore closing our file and will take no further action in this matter.

---

[7] Dispatch broadcast the call as a possible burglary to Dietze and Bui.